

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :10.09.2020

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 34977 OF 2013
and
M.P.Nos. 1 & 2 of 2013

A.Parivallal

.. Petitioner

- Vs -

1. The State of Tamil Nadu
Rep. By its Secretary to Government,
Health and Family Welfare Department,
Secretariat, Chennai 600 009.
 2. The Director of Social Obstetrics,
Institute of Social Obstertrics
& Government kasthurbai Gandhi
Hospital for Women & children,
Chennai 600 005.
 3. The Director of Medical Education,
Chennai 600 010.
- .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus, calling for the records on the file of the 2nd respondent in the proceedings ref.no.7298/E2/2013 dated 30.092013 and quash the same and to direct the respondents to reinstate the petitioner in service with all attendant benefits.

For Petitioner : No appearance.

For Respondents: Mr. A.N.Thambidurai, Spl.G.P.

ORDER

This writ petition has been filed by the petitioner to call for the records on the file of the 2nd respondent in the proceedings ref.no.7298/E2/2013 dated 30.092013 and quash the same and to direct the respondents to reinstate the petitioner in service with all attendant benefits.

2.The case of the petitioner is that the petitioner is a pharmacist. He passed Diploma in Pharmacy (Allopathy) in the year 1990 and registered the same with employment exchange in the year 1990. For the past 22 years, he was not considered for appointment to the post of pharmacist. In the mean while, the petitioner came to know that even persons who had registered in the employment exchange in the year 2009, 2010 and 2011 have got appointment under inter caste marriage priority quota whereas, the petitioner who registered in the year 1990 and also coming under the priority quota of land loser had not been considered. In the year 2011, he had filed a writ petition for considering his case for appointment under priority quota of land losers category in accordance with the employment exchange seniority. The said matter is pending. In the mean while, the petitioner was selected for appointment as pharmacist in the routine employment exchange seniority and by an order dated 20.9.2013 he was appointed as pharmacist. The grievance of the petitioner is that the said order of appointment was cancelled without notice and without assigning any reason by another order dated 30.09.2013 by the 2nd respondent. Aggrieved against the same, the petitioner filed this petition with the above said prayer.

3.Though, the case was initially listed on 07.08.2020, and thereafter listed on 26,08.2020 based on request, however there was no representation for the petitioner on that day and, therefore, the matter is listed on 10.9.2020. Even today, there is no representation for the petitioner. Considering the fact that the petition has been filed way back in the year 2013 and has been pending on the file of this Court since then, this Court proceeds to decide the case on merits and pass orders

4. Counter has been filed on behalf of the respondents and reiterating the averments made in the counter, learned Government Advocate submitted that the petitioner's name was sponsored by the employment exchange under the priority category of persons affected due to land acquired by Government. The petitioner was called for certificate verification during May 2010, however, the case of the petitioner was not considered under priority quota, but on the basis of his employment exchange seniority. However, the selection having been made by the Medical Services Recruitment Board, without impleading the Member Secretary, Medical Services Recruitment Board, who is the authority for selection of candidates for the appointment to the post of Pharmacist, the writ petition at the instance of the petitioner is not maintainable for non-joinder of parties.

5. This Court gave its anxious consideration to the submissions advanced and also perused the materials available on record.

6. On perusal of the counter affidavit, it reveals that as per G.O.Ms No.1, Health and Family Welfare (C2) Department, dated 2.1.2012 the Government have entrusted the work relating to the recruitment of Medical and Paramedical personnel in the Government Medical Institution to the Medical Services Recruitment Board. Based on the requirement submitted by the Directorates, the Medical Services Recruitment Board has selected candidates for appointment to the post of Pharmacist from the list of candidates sponsored by the Employment Exchange and allotted 58 candidates to the Directorate of Medical Education vide proceedings of the Member Secretary, Medical Services Recruitment Board in letter dated 20.9.2013 and the same has been communicated to the Heads of Medical Institution, for issue of appointment and posting orders. As per the above said proceedings of the Medical Services Recruitment Board the 2nd and 3rd respondent herein appointed the petitioner, a candidate selected by the Medical Services Recruitment Board as Pharmacist vide order dated 20.9.2013. Subsequently the Medical Services Recruitment Board in its letter dated 23.9.2013 has stated that due to administrative reasons the selection of certain candidates have been cancelled by the Medical Services Recruitment Board and revised provisional final selection list has been issued in the notification dated 23.9.2013 of Medical Services Recruitment Board. The Medical Services Recruitment Board has cancelled the selection of 8 number of candidates allotted to the Directorate of Medical Education including the petitioner, appointed as Pharmacist at Institute of Social Obstetrics and Government Kasturba Gandhi Hospital, Chennai, by its order dated 20.9.2013, and thereafter the order of cancellation of appointment was issued to the petitioner.

7. In the above backdrop, this Court perused the order impugned, issued by the respondents. Even a cursory look at the impugned order reveals that it is a cryptic order, wherein no reasons have been assigned for cancellation of appointment. Any order, which in detriment to the person who is to receive the same is issued, principles of natural justice requires a reasoned order to be passed. But, without following the rule of law in letter and spirit, by means of a cryptic order, the appointment of the petitioner has been cancelled, which is wholly arbitrary, irrational and unsustainable in the eye of law. This Court is of the considered opinion that the order is not only bad in law, but the basic tenets of law have been given a go-by while issuing the order, which definitely deserves to be interfered with.

8. For the reasons aforesaid, this writ petition stands allowed. Accordingly, the 2nd respondent's proceedings Ref. No.7298/E2/2013 dated 30.09.2013 is hereby quashed and this Court directs the 1st respondent to issue appointment order to the

petitioner within a period of 4 weeks from the date of receipt of a copy of this order. Consequently connected miscellaneous petitions are closed. However there shall be no order as to costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The State of Tamil Nadu
Rep. By its Secretary to Government,
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Secretariat, Chennai 600 009.
2. The Director of Social Obstetrics,
Institute of Social Obstertrics
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3. The Director of Medical Education,
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+1cc to the Government Pleader in SR.NO..29721

W.P. NO.34977 OF 2013

SR(CO)
RV(15/10/2020)

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